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**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

Guillermo Cabrera; La Morena Music
Entertainment, LLC; Jorge Ernesto
Ramirez Ceballos; Fernando Guardado
Rosales; Jose Rosario Cisneros
Gutierrez; and Luis Antonio Plasencia
Martinez,

Plaintiffs,

v.

Manuel Palomino; FM Entertainment
Artist Management and Booking Inc.;
and DOES 1 through 10, inclusive,

Defendants.

Case No. 5:25-cv-109

COMPLAINT FOR:

**(1) DIRECT AND DERIVATIVE FEDERAL
TRADEMARK COUNTERFEITING
(LANHAM ACT, 15 U.S.C. § 1114);**

**(2) DIRECT AND DERIVATIVE FEDERAL
TRADEMARK INFRINGEMENT
(LANHAM ACT, 15 U.S.C. § 1114);**

**(3) DIRECT AND DERIVATIVE FALSE
DESIGNATION OF ORIGIN (LANHAM
ACT, 15 U.S.C. § 1125(a));**

**(4) INTENTIONAL INTERFERENCE
WITH CONTRACT**

**(5) INTENTIONAL INTERFERENCE
WITH PROSPECTIVE ECONOMIC
ADVANTAGE;**

**(6) INTENTIONAL INFLICTION OF
EMOTIONAL DISTRESS;**

**(7) UNFAIR COMPETITION (CAL. BUS.
& PROF. CODE § 17200);**

**(8) COMMON LAW UNFAIR
COMPETITION;**

**(9) MISAPPROPRIATION OF IMAGE
AND LIKENESS AND VIOLATION OF
RIGHT OF PUBLICITY (CAL. CIVIL CODE
§ 3344); AND**

**(10) COMMON LAW
MISAPPROPRIATION OF IMAGE AND
LIKENESS AND VIOLATION OF RIGHT
OF PUBLICITY**

DEMAND FOR JURY TRIAL

1 Plaintiffs Jorge Ernesto Ramirez Ceballos (“Plaintiff Ernesto Ramirez”),
 2 Fernando Guardado Rosales (“Plaintiff Fernando Guardado”), Jose Rosario
 3 Cisneros Gutierrez (“Plaintiff Jose Cisneros”), Luis Antonio Plasencia Martinez
 4 (“Plaintiff Luis Plasencia”)¹, Guillermo Cabrera (“Plaintiff Guillermo Cabrera”) and
 5 La Morena Music Entertainment, LLC (“La Morena”) hereby allege and aver based
 6 on knowledge as to their acts and based on information and belief as to the acts of
 7 others, as follows:

8 **NATURE OF ACTION**

9 1. This is an action for intentional interference with existing and
 10 prospective economic relations, direct and derivative, trademark infringement and
 11 unfair competition and intentional infliction of emotional distress.

12 2. Plaintiffs bring this action against Defendant Miguel Palomino
 13 (“Defendant Palomino”) to stop his illegal campaign to defame and intimidate
 14 Plaintiffs, including through attempted bribery and threats of violence, and threats
 15 of engineering their deportation and interfering with their ability to obtain visas
 16 for musical performances in the United States. Plaintiffs also seek redress for
 17 Defendant Palomino’s repeated interference with Plaintiffs’ contractual and
 18 prospective economic relations with venues and ticketing agencies throughout the
 19 United States, including his false claim that Plaintiffs do not have trademark rights
 20 to tour in the United States.

21 3. Further, Defendants Palomino and Defendant FM Entertainment
 22 Artist Management and Booking Inc. (“Defendant FM”) are unlawfully using and
 23 profiting from Plaintiffs’ Banda Maguey trademarks and are liable for direct and
 24 derivative trademark infringement.

25 4. Plaintiffs Banda Maguey Founding Members are exclusive licensees of
 26 the famous Banda Maguey trademark in the United States and are doing business

27 ¹ Messrs. Guardado, Cisneros and Plasencia are collectively referred to as “Plaintiffs
 28 Banda Maguey Founding Members” or “Banda Maguey” (and jointly with Plaintiffs
 Ernesto Ramirez and Guillermo Cabrera, “Plaintiffs”).

1 as Banda Maguey both in the United States and Mexico. Plaintiff Guillermo
2 Cabrera is Banda Maguey's booking agent in the United States and is the owner of
3 Plaintiff La Morena. Plaintiff Ernesto Ramirez owns the Banda Maguey trademarks
4 in the United States and Mexico.

5 5. Defendant Palomino, including through his company FM
6 Entertainment, is in the business of booking concerts for musical bands in the
7 United States. Defendant Palomino boasts to having extensive contacts and
8 influence in the Latino musical industry in the United States, including with a
9 widespread network of venues and with at least one prominent ticketing agency,
10 and claims to be associated with one or more associates that he can call upon to
11 carry out violence against Plaintiffs.

12 6. Defendants' misconduct has greatly harmed Plaintiffs, forcing them to
13 bring this action to enforce their rights.

14 **BACKGROUND ON BANDA MAGUEY AND THE IMPOSTOR NON-PARTIES**

15 7. Banda Maguey is a famous musical group from Villa Corona, Jalisco
16 Mexico ("Banda Maguey") and a preeminent music band in the technobanda
17 music genre. Banda Maguey is managed by non-party Mr. Mario Cesar Guardado
18 and Plaintiff Ernesto Ramirez and comprises, *inter alia*, Plaintiff Banda Founding
19 Members.

20 8. Banda Maguey has provided entertainment services in connection
21 with the name and mark Banda Maguey for several decades, dating back to at
22 least 1991, including throughout the United States.

23 9. Plaintiff Ramirez Ceballos is the owner of the Banda Maguey
24 trademarks and the copyright over the Banda Maguey logo artwork ("Banda
25 Maguey Design"). Plaintiffs Banda Maguey Founding Members are exclusive
26 licensees of the Banda Maguey trademarks and copyright and have sole and
27 exclusive ownership and interest in their individual names, images and likenesses.
28

10. Defendant Palomino purports to represent an impostor band made up of former band members Miguel Angel Vidal Pulido (“Impostor Non-Party MA Pulido”) and Samuel Vidal Pulido (“Impostor Non-Party S Pulido”), who are also using the Banda Maguey trademarks illegally and without authorization, including through Defendant Banda Maguey Corporation, dba Banda Maguey USA, Inc. (“Impostor Band”) (collectively, “Impostor Non-Parties”).

11. Plaintiffs Banda Maguey Founding Members have brought pending litigation against the Impostor Non-Parties for, *inter alia*, trademark infringement and misappropriation of likeness. Impostor MA Pulido is currently the subject of an injunction prohibiting him from using the Banda Maguey trademarks in Mexico.²

12. Defendants Palomino and FM have greatly profited from their representation of the Impostor Non-Parties, securing for Defendant Palomino fees in the amount of 50% of total bookings.

THE PARTIES

13. Plaintiff Ernesto Ceballos is a citizen and resident of Mexico.

14. Plaintiff Fernando Guardado is a citizen and resident of Mexico.

15. Plaintiff Jose Cisneros is a citizen and resident of Mexico.

16. Plaintiff Luis Plasencia Martinez is a citizen and resident of Mexico.

17. Plaintiff Guillermo Cabrera is a resident of the state of Arizona.

18. Plaintiff La Morena Music Entertainment, LLC (“La Morena”) is an Arizona Limited Liability Company with a principal place of business Surprise, Arizona owned by Plaintiff Guillermo Cabrera.

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² Impostor Non-Party MA Pulido has lost every proceeding challenging Plaintiff Ernesto Ceballos’ ownership of the Banda Maguey trademarks in Mexico.

19. Defendant Palomino is a California resident, residing at 4657 Rockingham Loop, Riverside, California 92509.

20. Defendant FM Entertainment Artist Management and Booking Inc. is a California corporation with a principal place of business at 4657 Rockingham Loop, Riverside, California 92509.

21. Plaintiffs are unaware of the true names and capacities, whether individual, corporate, associate, or otherwise, of Defendants DOES 1 through 10 and therefore sues them by such fictitious names. Each DOE Defendant is responsible for the claims and damages alleged herein and is jointly and severally liable with all other Defendants. Plaintiffs will seek leave of Court to amend this Complaint when they ascertain the identities of these Defendants.

22. At all relevant times, Defendant Palomino knowingly and intentionally authorized and participated in the wrongful conduct alleged here, including in the Impostor Non-Parties' misconduct. Among other things, he directed, authorized, or participated in attempting to bribe Plaintiff Guillermo Cabrera and in threatening violence and deportation against Plaintiffs Banda Maguey Founding Members. Further, he personally interfered with Plaintiffs' contractual and economic relationships with third parties and with each other, and he participated in infringement and unfair competition. As such, he is personally liable in this action.

23. At all relevant times, and as more fully described below, Defendant Palomino was and is the President and control person of Defendant FM. Notwithstanding his role as a corporate officer, Defendant Palomino acted in his own interest for his own improper purpose by personally infringing Plaintiffs' rights. Further, Defendant Palomino, directed, was aware of, participated in and facilitated the referenced infringing activity and conspiracy. He further failed to take any steps to prevent the Impostor Defendants' unlawful use of the Banda Maguey intellectual property. Moreover, Defendant Palomino directed,

1 participated in and ratified this wrongful conduct after receiving notice of
2 Plaintiffs' claims.

3 24. At all relevant times, the Impostor Non-Parties were aware of and
4 cooperated with, authorized and ratified Defendants' misconduct and conspiracy
5 alleged herein, and are therefore also liable.

6 25. At all relevant times, Defendants acted through their agents,
7 members and/or managing members. At all relevant times each of the
8 Defendants was the agent, ostensible agent, employee, alter ego, and/or co-
9 conspirator of each of the remaining Defendants and at all times was acting within
10 the purpose and scope of such agency, employment, and conspiracy and with the
11 knowledge, authorization, permission, consent and/or subsequent ratification and
12 approval of each Co-defendant.

13 **JURISDICTION AND VENUE**

14 26. This Court has original jurisdiction over the subject matter of this
15 action pursuant to 28 U.S.C. §§ 1331, 1338(a), and 15 U.S.C. § 1121. The Court has
16 supplemental jurisdiction over the state law claims asserted herein under 28
17 U.S.C. § 1338(b) because they form some part of the same case or controversy
18 under Article III of the United States Constitution.

19 27. Venue is proper in this judicial district pursuant to 28 U.S.C. § 1391
20 because it is a judicial district in which a substantial part of the events giving rise
21 to the claims asserted herein occurred, because Defendants have or are
22 advertising and using the infringing marks in this judicial district, including through
23 several concerts in Los Angeles County, and because Defendants are residents of
24 this judicial district under Section 1391.

25 28. This Court has personal jurisdiction over all Defendants because they
26 reside in the state of California and have engaged in the wrongful conduct
27 outlined herein in California.
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FACTUAL BACKGROUND**A. Background on Banda Maguey**

29. Banda Maguey was formed in 1992 in Villa Corona, Jalisco, Mexico, and quickly rose to fame as the preeminent technobanda genre musical band. Banda Maguey signed with Fonovisa shortly thereafter and released its first record Tumbando Caña in January 1994. Banda Maguey debuted in the United States in a sold-out area in Los Angeles on May 5, 1994. Over the next decades, Banda Maguey recorded and released 20 albums, all of which garnered international fame.

30. Banda Maguey has continuously toured in Mexico and the United States since 1992. Its international fame continues through today, including a massive social media following on Facebook and Instagram.

31. Plaintiff Ramirez Ceballos, including through his predecessors-in-interest and exclusive licensees Plaintiffs Banda Maguey Founding Members, adopted the “Banda Maguey” mark (“Banda Maguey Mark”) in 1992 and the “La Original Banda Maguey, Y Sigue Y Sigue Y Puro Villa...Corona” mark in 2019 (collectively, the “Banda Maguey Marks”). Plaintiffs have continuously promoted and used the Banda Maguey Marks throughout the United States in interstate commerce and have expended considerable sums in exerting every effort to maintain and develop the Banda Maguey Marks.

32. Banda Maguey’s ongoing investment and effort to develop its intellectual property in the Banda Maguey Marks since at least 1992 has resulted in widespread fame and recognition. Banda Maguey’s social media and internet sites featuring the Banda Maguey Marks are widely known and followed in the United States.

B. The ’067 Banda Maguey Registration

33. Plaintiff Ernesto Ramirez owns, and Plaintiffs Banda Maguey Founding Members are exclusively licensees, of U.S. Registration Number 2,198,067 (the

1 “067 Banda Maguey Registration”) through a series of assignments duly recorded
2 with the USPTO.

3 34. Impostor Non-Parties MA Pulido and S Pulido filed a cancellation
4 petition of the ’067 Registration based on alleged fraud. Plaintiff Ernesto Ramirez
5 was not notified of the petition and thus did not timely respond. As such,
6 Imposter Non-Parties MA Pulido and S Pulido obtained a default order cancelling
7 the ’067 Banda Maguey Registration. Notably, Impostor Non-Party MA Pulido has
8 lost actions to cancel the Banda Maguey registrations in Mexico, as those were
9 actions were litigated on the merits.

10 35. While the cancellation of the ’067 Registration denies Plaintiffs
11 certain statutory rights, Plaintiffs have retained all common law rights to the
12 Banda Maguey Mark associated with the Banda Maguey goodwill through the
13 assignments described above.

14 **C. The ’963 Registration for the “La Original Banda Maguey, Y Sigue Y
15 Sigue Y... Puro Villa Corona” and Design**

16 36. Plaintiff Ramirez Ceballos also owns U.S. Registration 5,985,963 (the
17 “963 Registration”) over the mark “La Original Banda Maguey, Y Sigue Y Sigue Y...
18 Puro Villa Corona” and design (“La Original Banda Maguey Mark”). Plaintiff
19 Ramirez Ceballos registered the La Original Banda Maguey Mark in IC 41 for
20 entertainment services in the nature of presenting live musical performances with
21 a date of first use of at least February 27, 2019, as follows:



D. The Banda Maguey Copyrighted Design

37. Plaintiff Ramirez Ceballos also owns the copyright over the Banda Maguey Design, including as shown below, as well as any modifications thereof. This original work of authorship consists of a graphic design of the wording Banda Maguey in stylized letters, where the letter M is depicted as an animated character wearing a Mexican sombrero and a colorful sash, holding a trumpet, as follows:

**E. The Impostor Non-Parties' Direct Trademark Counterfeiting and Infringement**

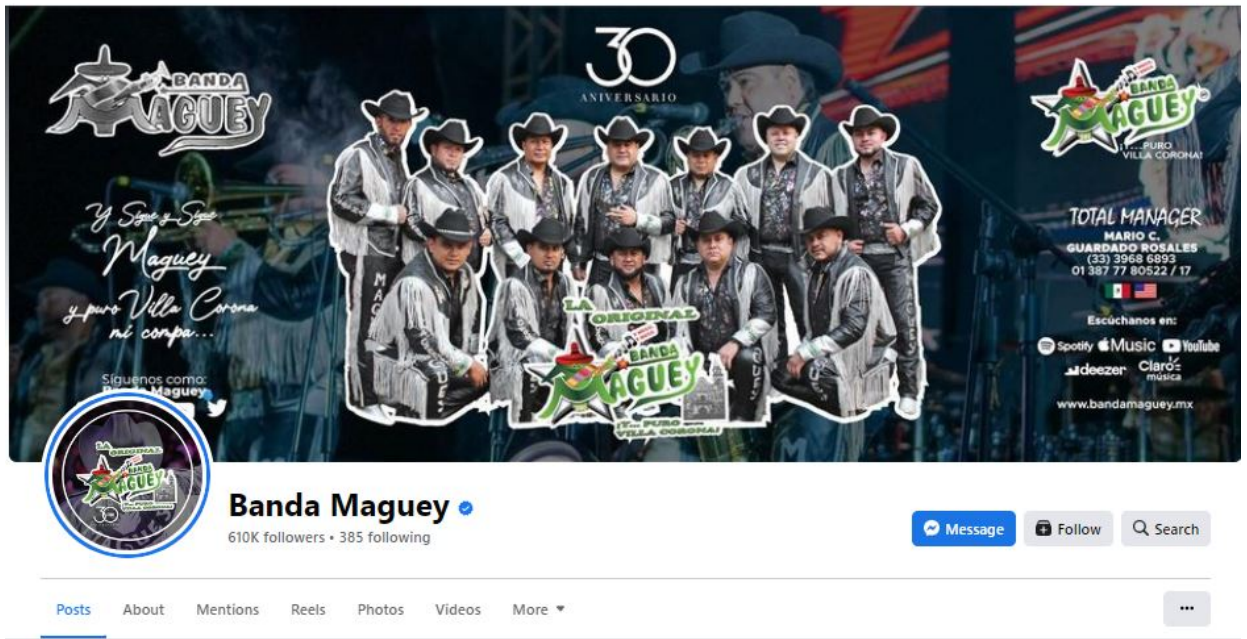
38. The Impostor Non-Parties' infringing use of the Banda Maguey Corporation name, the Banda Maguey USA, Inc. dba, and their use in advertising, social media and musical performances of the Banda Maguey and La Original Banda Maguey Marks are unlawful.

39. By way of example, the legitimate Banda Maguey Facebook page went live in at least 2010 and has over 909,000 followers³.

40. On or about July 7, 2021, the Impostor Non-Parties created a fraudulent Facebook page claiming that it is "La Original Banda Maguey" (the Original Banda Maguey). The following comparison illustrates the Impostor Non-Parties' brazen infringement.

³ By way of comparison, Defendants' fraudulent Facebook account has created confusion to the tune of 35,000 followers.

Legitimate Facebook Banner:



Infringing Facebook Banner:



41. The Impostor Non-Parties have also copied the legitimate Banda Maguey Instagram page, which went live in April 2016 at @bandamagueyoficial and currently has over 627,000 followers, by creating a fraudulent Instagram account at @laoriginal_bandamaguey_oficial, again claiming to be La Original Banda Maguey, as shown below.



Legitimate Trademark Images	Infringing Trademark Images
	
	

42. Beginning in June, 2021, the Impostor Non-Parties engaged in counterfeiting, infringement and false designation of origin in connection with live musical performances, as shown below:

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Legitimate Trademark Images	Infringing Trademark Images
	
	

Legitimate Trademark Images	Infringing Trademark Images
	

43. The Impostor Non-Parties' brazen and widespread trademark infringement also includes their copying the Banda Maguey Marks from other legitimate Banda Maguey social media platforms that have tremendous popularity.

44. For example, the legitimate Banda Maguey YouTube account was created on June 5, 2012 and has over 376,181,419 views and 413,000 subscribers. Its TikTok account has 1.1M followers and over 26.4M likes. And its Spotify Account has 1,244,877 followers and 2,918,558 monthly listeners.

45. The Impostor Non-Parties' infringing YouTube, TikTok and Spotify accounts have secured a very limited following that is likely to cause and has caused confusion.

F. Defendants' and Impostor Non-Parties' Misappropriation of Plaintiffs Banda Maguey Founding Members' Image and Likeness and Violation of Their Right of Publicity

46. Beginning in 2023, Defendant Palomino misappropriated the image and likeness of Plaintiffs Banda Maguey Founding Members.

47. In particular, Defendant Palomino and Impostor Non-Parties have taken, directly and/or through their agents, recent concert video, images, photographs and advertising featuring Plaintiffs Banda Maguey Founding Members and used them without authorization to falsely promote their own concerts in the United States and mislead the public into believing they were attending legitimate Banda Maguey concerts.

48. Defendant Palomino's misappropriation includes numerous unauthorized publications of recent videos, photographs and images featuring Plaintiffs Banda Maguey Founding Members in connection with extensive recent publicity, marketing, advertising and concerts.

49. As recently as January 10, 2025, Defendant Palomino caused an image of Plaintiff Founding Members to be sent to 801 Event Center in Salt Lake City, Utah for publication on social media to falsely promote a musical concert scheduled by the Imposter Non-Parties for February 8, 2025, as follows:



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ATTORNEYS AT LAW
LOS ANGELES



See also, Exhibit A.

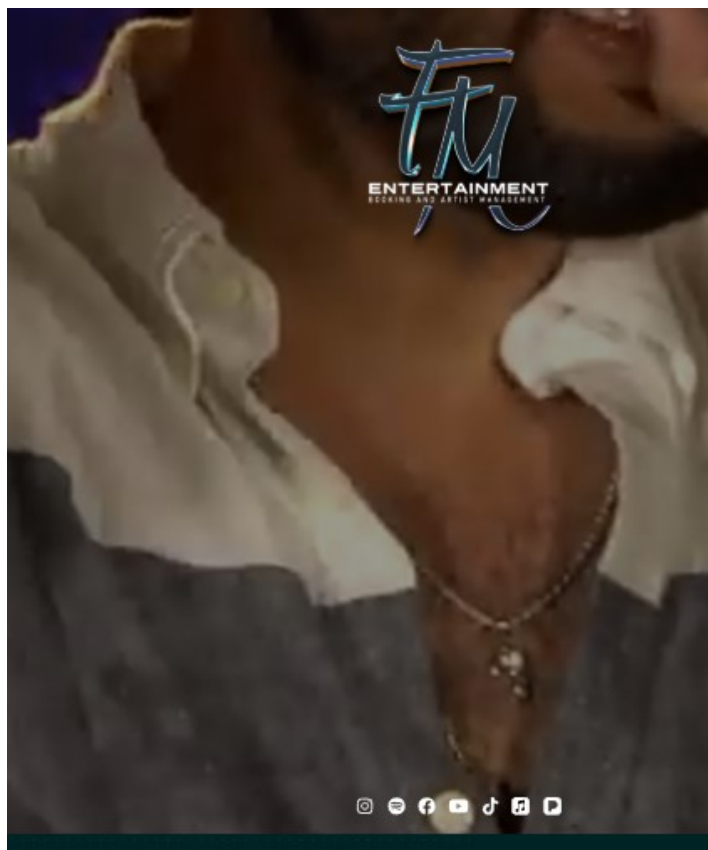
G. Defendants Palomino and FM's Direct and Derivative Trademark Counterfeiting and Infringement

50. Defendants Palomino and FM are and have been the Impostor Non-Parties' exclusive agents in the United States.

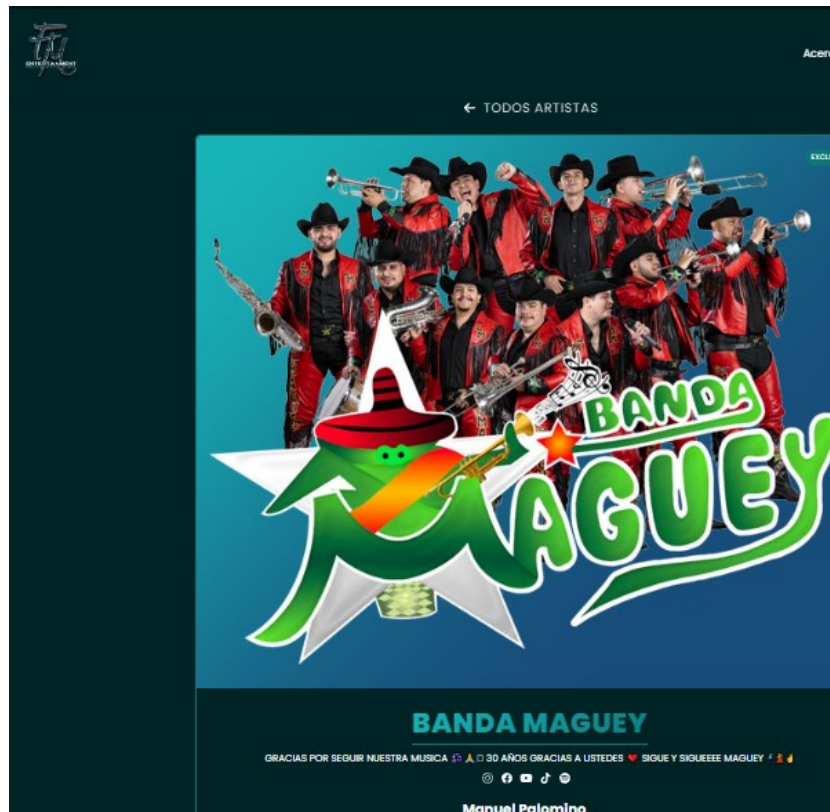
51. Further, Defendant Palomino and Impostor Non-Party MA Pulido have been close associates for many years, including sharing the same address at 4657 Rockingham Loop, Riverside, California 92509.

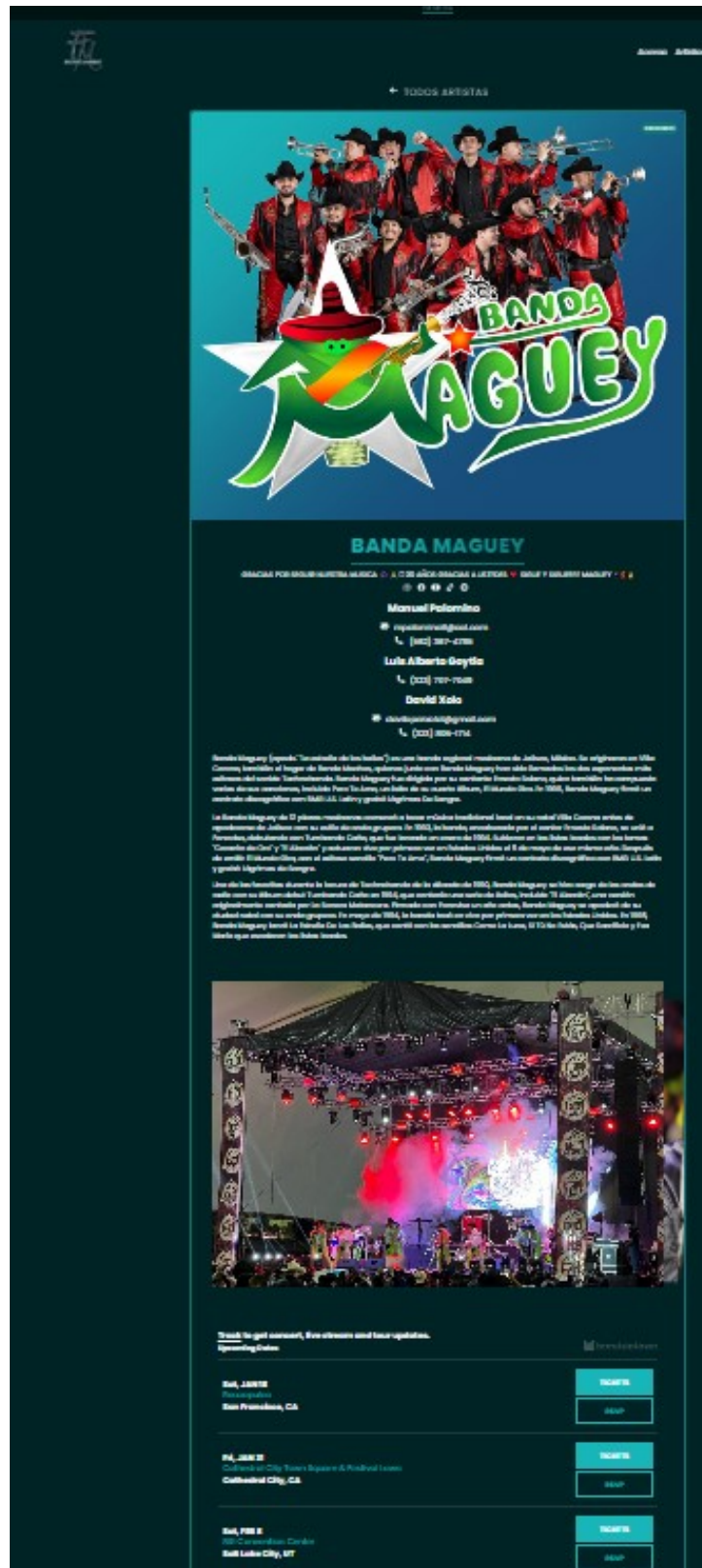
52. Defendants Palomino and FM typically negotiate with venues for the booking of concerts, and they also enter into musical event contracts with those venues, including on their own behalf for the benefit of the Impostor Non-Parties. This arrangement is very lucrative for Defendants Palomino and FM, including obtaining up to 50% of fees generated through concerts. As such, Defendants Palomino and FM are highly incentivized to represent the Impostor Non-Parties throughout the United States.

53. Defendants Palomino and FM promote the Impostor Non-Parties exclusively using the Banda Maguey Marks. They do so in connection with contracts as well as through extensive publicity, including on their website, as follows:



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bandamaguey_oficial San Jacinto, CA 🇺🇸
Tenemos Una Cita Este 15 De Febrero Del
2025 📅 En Los Mareados VIP 🔥 ... more
3 days ago

1 54. Thus, Defendants FM and Palomino refer to the Impostor Non-Parties
2 as “La Familia” (“The Family”), and they have a dedicated webpage exclusively for
3 the Impostor Non-Parties and their infringing Banda Maguey Mark, as well as
4 prominently featuring them on the FM landing page as one of their top nine
5 clients.

6 55. As of the date of this filing, Defendants’ online advertising of the
7 Impostor Non-Parties and their infringing Banda Maguey Marks also includes
8 prominently promoting concerts in various venues on January 18 and 31 and
9 February 8, 15 and 16, April 5 and May 3, including in California.

10 56. Further, Defendants FM and Palomino routinely create and generate
11 concert ads and posters using infringing Banda Maguey Marks for purposes of
12 promoting the Impostor Non-Parties in the United States.

13 57. As such, Defendants Palomino and FM are liable for direct and
14 derivative trademark infringement and counterfeiting, as further alleged herein.

15 **H. Defendants Palomino and FM’s Intentional Interference**

16 58. In order to expand their lucrative agreement with the Impostor Non-
17 Parties, Defendants have undertaken a scheme to interfere with Plaintiffs’ right
18 and ability to perform in concerts throughout the United States.

19 59. Specifically, Defendant Palomino, on his own behalf and on behalf of
20 Defendant FM, has repeatedly contacted venues across the United States and
21 misrepresented that Plaintiffs do not have a right to perform in the United States
22 in order to persuade those venues to cancel contracts with Plaintiffs for the
23 performance of concerts.

24 60. But Defendant Palomino didn’t stop there. Rather, he set out to
25 further sabotage Plaintiffs’ musical concerts and tours by wrongfully interfering
26 with their ability to sell concert tickets to their extensive fan base.

27 61. Defendant Palomino directly and indirectly contacted Ticketón
28 Entertainment L.P., a preeminent ticketing agency catering to Latin and Hispanic

1 music fans, musical bands and performers, and falsely stated that Plaintiffs do not
2 have the right to perform musical events and/or tour in the United States.

3 62. Defendant Palomino did so because he knows that a large percentage
4 of all concert tickets for Plaintiffs' concerts are purchased through Ticketón, and
5 because he intended to cause Ticketón to cease selling tickets to Plaintiffs'
6 extensive fan base in order to cripple Plaintiffs' concert tours in the United States.

7 63. As a result of Defendants' misconduct, venues have cancelled
8 Plaintiffs' concerts and Ticketón has at different times ceased selling tickets to
9 Plaintiffs' concerts.

10 **I. Defendant Palomino's Threats Against Plaintiff Guillermo Cabrera**
11 **and Banda Maguey Founding Members**

12 64. Unsatisfied with his malicious interference, Defendants Palomino also
13 set out to intimidate Plaintiffs and bribe Plaintiff Cabrera.

14 65. In October 2024, Defendant Palomino contacted Plaintiff Guillermo
15 Cabrera and demanded a face-to-face meeting in Mr. Cabrera's home in Arizona,
16 even though Defendant Palomino resides in Riverside County.

17 66. Defendant Palomino's insistence on a face-to-face meeting surprised
18 and alarmed Plaintiff Cabrera, who did not have a prior relationship with
19 Defendant Palomino.

20 67. When Plaintiff Cabrera declined a face-to-face meeting, Defendant
21 Palomino insisted that Plaintiff Cabrera make himself available for a phone call.

22 68. During that call, Defendant Palomino tried to bribe Plaintiff Cabrera
23 to stop representing Plaintiffs Banda Maguey Founding Members.

24 69. Defendant Palomino also threatened Plaintiffs with physical harm,
25 claiming that he was very well connected and that with one phone call he could
26 cause Plaintiffs physical harm and have them removed from the United States.

27 70. Defendant Palomino previously made similar threats to Banda
28 Maguey's manager and non-party Mario Guardado.

1 71. Defendant Palomino's threats have greatly alarmed Plaintiffs, causing
2 them to fear for their safety.

3 **FIRST CLAIM FOR RELIEF**

4 **Direct and Derivative Federal Trademark Counterfeiting**

5 **in Violation of Lanham Act § 32, 15 U.S.C. § 1114**

6 72. Plaintiffs reallege and incorporate by reference each of the foregoing
7 paragraphs of this Complaint as though fully set forth in full herein.

8 73. Defendants' and Impostor Non-Parties' use of the La Original Banda
9 Maguey Mark is identical with, or substantially indistinguishable from the La
10 Original Banda Maguey Mark over which Plaintiff Ramirez Ceballos holds the '963
11 Registration. Defendants have used these spurious designs in commerce in
12 connection with live musical performances, signs, displays, advertisements,
13 promotional materials, website content, videos, and other materials for the
14 provision of musical services for their own financial gain and without
15 authorization.

16 74. Defendants had actual and direct knowledge of Plaintiffs' prior use
17 and/or ownership of the La Original Banda Maguey Mark and their conduct is
18 therefore willful and reflects Defendants' and Impostor Non-Parties' intent to
19 exploit the goodwill and strong brand recognition associated with the La Original
20 Banda Maguey Mark.

21 75. Defendants intentionally induced the Impostor Non-Parties to engage
22 in counterfeiting, including by advertising on their behalf using the Banda Maguey
23 Marks and negotiating and securing contracts with venues for their performance.

24 76. Further, Defendants had reason to know that the Impostor Non-
25 Parties would use Defendants' goods and services to infringe and had control over
26 securing venues that the Impostor Non-Parties used to infringe.

77. Defendants' and Impostor Non-Parties acts constitute direct and derivative trademark counterfeiting, including inducement and contributory infringement, in violation of Section 32 of the Lanham Act, 15 U.S.C. § 1114.

78. Defendants' and Impostor Non-Parties' direct and derivative trademark counterfeiting has caused and, unless restrained and enjoined by this Court, will continue to cause substantial, immediate and irreparable injury to Plaintiffs for which they are without an adequate remedy at law.

79. Defendants' and Impostor Non-Parties counterfeit use of La Original Banda Maguey Mark is knowing and willful, entitling Plaintiffs to statutory damages of up \$2,000,000 and attorneys' fees and costs under 15 U.S.C. § 1117.

SECOND CLAIM FOR RELIEF

Direct and Derivative Federal Trademark Infringement of a

Registered Mark in Violation of Lanham Act § 32, 15 U.S.C. § 1114

80. Plaintiffs reallege and incorporate by reference each of the foregoing paragraphs of this Complaint as though fully set forth in full herein.

81. At all relevant times, Defendants have used unauthorized reproductions and/or imitations of the La Original Banda Maguey Mark for which Plaintiff Ramirez Ceballos holds the '963 Registration in a manner likely to cause confusion and/or mistake and/or to deceive.

82. Defendants have reproduced, copied and/or imitated the La Original Banda Maguey Mark and have used such reproductions, copies and/or colorable imitations in connection with live musical performances, signs, displays, advertisements, promotional materials, website content, and other materials used in commerce in connection with the advertising and provision of musical services in a manner likely to cause confusion and/or mistake and/or to deceive.

83. Defendants are acting and have acted with knowledge that their copying and use of the La Original Banda Maguey Mark is unauthorized and unlawful and with the intent to cause confusion and/or mistake and/or to deceive.

84. Defendants intentionally induced the Impostor Non-Parties to engage in infringement, including by advertising on their behalf using the Banda Maguey Marks and negotiating and securing contracts with venues for their performance.

85. Further, Defendants had reason to know that the Impostor Non-Parties would use Defendants' goods and services to infringe and had control over securing venues that the Impostor Non-Parties used to infringe.

86. Defendants' acts constitute direct and derivative trademark counterfeiting, including inducement and contributory infringement, in violation of Section 32 of the Lanham Act, 15 U.S.C. § 1114.

87. Defendants' and Impostor Non-Parties' trademark infringement has caused and, unless restrained and enjoined by this Court, will continue to cause substantial, immediate and irreparable injury to Plaintiffs' business, reputation and goodwill for which they are without an adequate remedy at law.

88. As a direct and proximate result of Defendants' intentional and willful violation of 15 U.S.C. § 1114, Plaintiffs have suffered and continue to suffer injury, loss and damages in an amount according to proof at trial, and are entitled to recover damages, extraordinary damages, attorneys' fees and costs pursuant to 15 U.S.C. § 1117, and to disgorgement of Defendants' unlawful gains and profits.

THIRD CLAIM FOR RELIEF

Direct and Derivative Federal Unfair Competition and False Designation of Origin in Violation of Lanham Act § 43(a), 15 U.S.C. § 1125(a)

89. Plaintiffs reallege and incorporate by reference each of the foregoing paragraphs of this Complaint as though fully set forth in full herein.

90. Defendants have engaged in the unauthorized use of the Banda Maguey Marks through their advertising and musical performances, and through their use of the names Banda Maguey Corporation and Banda Maguey USA, Inc.

1 91. Defendants' and Impostor Non-Parties' unlawful use of the Banda
2 Maguey Marks constitute false and misleading designations of origin and false and
3 misleading representations of facts, which:

- 4 A. Are likely to cause confusion, or to cause mistake, or to deceive
5 as to the affiliation, connection, or association of Defendants
6 with Banda Maguey, or as to the origin, sponsorship, or
7 approval of Defendants' goods or commercial activities by
8 Banda Maguey; and/or
9 B. Misrepresent the nature, characteristics, or qualities of
10 Defendants' goods, services, or commercial activities.

11 92. Defendants intentionally induced the Impostor Non-Parties to engage
12 in false designation of origin, including by advertising on their behalf using the
13 Banda Maguey Marks and negotiating and securing contracts with venues for their
14 performance.

15 93. Further, Defendants had reason to know that the Impostor Non-
16 Parties would use Defendants' goods and services to infringe and had control over
17 securing venues that the Impostor Non-Parties used to infringe.

18 94. Defendants' acts constitute direct and derivative false designation of
19 origin, including inducement and contributory infringement, in violation of Section
20 32 of the Lanham Act, 15 U.S.C. § 1114.

21 95. Defendants' misconduct in violation of 15 U.S.C. § 1125(a) has caused
22 and, unless restrained and enjoined by this Court, will continue to cause
23 substantial, immediate and irreparable injury to Plaintiffs' business, reputation,
24 and goodwill for which they are without an adequate remedy at law.

25 96. As a direct and proximate result of Defendants' intentional and willful
26 violation of 15 U.S.C. § 1125(a), Plaintiffs have suffered and continue to suffer
27 injury, loss and damages in an amount according to proof at trial, and are entitled
28

1 to recover damages, extraordinary damages, attorneys' fees and costs pursuant to
2 15 U.S.C. § 1117, and to disgorgement of Defendants' unlawful gains and profits.

3 **FOURTH CLAIM FOR RELIEF**

4 **Intentional Interference with Contract**

5 97. Plaintiffs reallege and incorporate by reference each of the foregoing
6 paragraphs of this Complaint as though fully set forth in full herein.

7 98. Plaintiffs Cabrera and La Morena have contractual relationships with
8 numerous venues for the performance of events by Banda Maguey. Plaintiffs
9 Banda Maguey Founding Members are third party beneficiaries of those contracts.
10 Plaintiffs Cabrera and La Morena also have contractual relationships with Banda
11 Maguey for the booking of musical events.

12 99. Defendants Palomino and FM had knowledge of the existence of
13 those contracts.

14 100. Despite this knowledge, Defendants Palomino and FM engaged in the
15 unlawful conduct described above to interfere with each of those contracts and
16 did so knowing that interference and disruption of those contracts were certain or
17 substantially certain to occur.

18 101. Defendants Palomino and FM's misconduct has resulted in
19 interference with the referenced contracts, including contracts with venues and
20 the contracts between Banda Maguey and Plaintiffs Cabrera and La Morena.

21 102. As a direct, proximate and foreseeable result of this interference,
22 Plaintiffs have been damaged in an amount subject to proof at trial.

23 103. Defendants' actions are, were and remain a substantial factor in
24 causing Plaintiffs harm, injuries and damages.

25 104. Plaintiffs are entitled to damages according to proof at trial.

26 105. Defendants' intentional interference is willful, malicious, oppressive
27 and fraudulent, entitling Plaintiffs to punitive damages.
28

FIFTH CLAIM FOR RELIEF

Intentional Interference with Prospective Economic Relations

106. Plaintiffs reallege and incorporate by reference each of the foregoing paragraphs of this Complaint as though fully set forth in full herein.

107. Over the course of many years, Plaintiffs have developed long-standing relationships with their extensive fan base and Ticketón, including an expectation of future economic benefits.

108. Defendants had knowledge of the existence of these relationships.

109. Despite this knowledge, Defendants engaged in the misconduct described above knowing disruptions of Plaintiffs' relationships were certain or substantially certain to occur.

110. Plaintiffs' relationships with their fan base and Ticketón have been disrupted by Defendants' actions.

111. As a direct, proximate and foreseeable result of Defendants' interference with Plaintiffs' prospective economic advantage, Plaintiffs have been damaged in an amount subject to proof at trial.

112. Defendants' actions are, were and remain a substantial factor in causing Plaintiffs harm, injuries and damages.

113. Plaintiffs are entitled to damages according to proof at trial.

114. Defendants' intentional interference is willful, malicious, oppressive and fraudulent, entitling Plaintiffs to punitive damages.

SIXTH CLAIM FOR RELIEF

Intentional Infliction of Emotional Distress

115. Plaintiffs reallege and incorporate by reference each of the foregoing paragraphs of this Complaint as though fully set forth in full herein.

116. Defendant Palomino has repeatedly threatened physical violence against Plaintiffs and has threatened to block their ability to obtain visas to

1 perform in the United States, including a threat to have Plaintiff members of
2 Banda Maguey deported.

3 117. Defendant Palomino engaged in extreme and outrageous conduct
4 with the intention of causing, or with reckless disregard of the probability of
5 causing Plaintiffs Cabrera and Plaintiff members of Banda Maguey emotional
6 distress.

7 118. Defendant Palomino's misconduct was a substantial factor in causing
8 Plaintiffs Cabrera and Plaintiff members of Banda Maguey serious emotional
9 distress.

10 **SEVENTH CLAIM FOR RELIEF**

11 **Unfair Competition in Violation of**

12 **California Business & Professions Code § 17200, *et seq.***

13 119. Plaintiffs reallege and incorporate by reference each of the foregoing
14 paragraphs of this Complaint as though fully set forth in full herein.

15 120. Defendants' misconduct constitutes unlawful, unfair and fraudulent
16 business acts or practices and unfair, deceptive, untrue or misleading advertising,
17 in violation of California Business & Professions Code §17200, *et seq.*

18 121. As a direct and proximate result of Defendants' unfair, unlawful and
19 illegal business practices, Plaintiffs have suffered irreparable harm to their
20 reputation and goodwill. As such, Plaintiffs are entitled to injunctive relief as set
21 forth herein.

22 **EIGHTH CLAIM FOR RELIEF**

23 **Common Law Unfair Competition**

24 122. Plaintiffs reallege and incorporate by reference each of the foregoing
25 paragraphs of this Complaint as though fully set forth in full herein.

26 123. Defendants' misconduct constitutes infringement and counterfeiting,
27 and misappropriation of Plaintiffs' intellectual property, unjust enrichment, as well
28

1 as unfair competition under the common law of the State of California and other
2 states of the United States.

3 124. Defendants' willful conduct outlined herein has unjustly enriched
4 Defendants in violation of Plaintiffs' rights. As such, Plaintiffs are entitled to
5 injunctive relief and monetary damages according to proof at trial.

6 **NINTH CLAIM FOR RELIEF**

7 **Misappropriation of Image and Likeness**

8 **Pursuant to California Civil Code § 3344**

9 125. Plaintiffs reallege and incorporate by reference each of the foregoing
10 paragraphs of this Complaint as though fully set forth in full herein.

11 126. Defendants have knowingly misappropriated the image and likeness
12 of Plaintiffs Banda Maguey Founding Members. *Inter alia*, Defendants have taken,
13 directly and/or through their agents, recent concert videos, photographs, images
14 and advertisements of Plaintiffs Banda Maguey Founding Members and used them
15 without authorization to falsely promote their own concerts.

16 127. Defendants' misappropriation was in direct connection with a
17 commercial and advertising purpose. Defendants gained a commercial benefit by
18 violating Plaintiffs Banda Maguey Founding Members' right of publicity.

19 128. Defendants have never had any authorization or permission to use,
20 publish, display or commercially exploit Plaintiffs Banda Maguey Founding
21 Members' image or likeness or right of publicity.

22 129. Defendants have realized unjust profits, gains and advantages, and
23 they will continue to realize unjust profits, gains and advantages, as a proximate
24 result of their misconduct.

25 130. Plaintiffs Banda Maguey Founding Members have suffered and
26 continue to suffer injury, loss and damages in an amount according to proof at
27 trial, including damages and disgorgement of Defendants' unlawful gains and
28

1 profits. Defendants' misconduct was a substantial factor in causing Banda Maguey
2 Founding Members harm.

3 131. Banda Maguey Founding Members are also entitled to recover
4 exemplary damages and attorneys' fees.

5 **TENTH CLAIM FOR RELIEF**

6 **Common Law Misappropriation of Image and Likeness**

7 132. Plaintiffs reallege and incorporate by reference each of the foregoing
8 paragraphs of this Complaint as though fully set forth in full herein.

9 133. Defendants have knowingly misappropriated the image and likeness
10 of Plaintiffs Banda Maguey Founding Members. *Inter alia*, Defendants have taken,
11 directly and/or through their agents, recent concert videos, photographs, images
12 and advertisements of Plaintiffs Banda Maguey Founding Members and used them
13 without authorization to falsely promote their own concerts.

14 134. Defendants' misappropriation was in direct connection with a
15 commercial and advertising purpose. Defendants gained a commercial benefit by
16 violating Plaintiffs Banda Maguey Founding Members' right of publicity.

17 135. Defendants have never had any authorization or permission to use,
18 publish, display or commercially exploit Plaintiffs Banda Maguey Founding
19 Members' image or likeness or right of publicity.

20 136. Defendants have realized unjust profits, gains and advantages, and
21 they will continue to realize unjust profits, gains and advantages, as a proximate
22 result of their misconduct.

23 137. Plaintiffs Banda Maguey Founding Members have suffered and
24 continue to suffer injury, loss and damages in an amount according to proof at
25 trial, including damages and disgorgement of Defendants' unlawful gains and
26 profits. Defendants' misconduct was a substantial factor in causing Banda Maguey
27 Founding Members harm. Banda Maguey Founding Members are also entitled to
28 recover exemplary damages.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs pray for judgment in their favor and against Defendants, including but not limited to, the following relief:

1. That the Court order a preliminary and permanent injunction enjoining Defendants, their members, officers, principals, shareholders, agents, servants, employees, attorneys, successors and assigns, distributors, retailers and those in privity with them, including but not limited to the Impostor Non-Parties, and any other persons in active concert or participation with any of them who receive actual notice of the judgment by personal service or otherwise, from any further infringement or counterfeiting of the Banda Maguey Marks and from any further acts of interference, intentional infliction of emotional distress, and unfair competition;

2. That the Court find that Defendants' misuse of the Banda Maguey Marks and the Banda Maguey Design was, at all relevant times, willful and intentional;

3. That the Court award damages sustained by Plaintiffs in an amount according to proof at trial;

4. That the Court order an accounting to Plaintiffs for Defendants' profits derived from their unlawful acts, and for disgorgement of those profits;

5. That the Court enter judgment for three times Defendants' profits and Plaintiffs' damages and such additional sums as the Court shall find to be just, along with reasonable attorneys' fees and prejudgment interest;

6. That the Court award statutory damages for counterfeiting in the amount of \$2,000,000;

7. That the Court require that Defendants, within thirty (30) days after service of the judgment demanded here, to file with this Court and serve upon undersigned counsel a written report under oath setting forth in detail the manner in which it has complied with the judgment;

1 8. That the Court order an accounting of and impose a constructive trust
2 on all of Defendants' funds and assets that arise out of its unlawful conduct;

3 9. That the Court retain jurisdiction of this action for the purpose of
4 enabling Plaintiffs to apply to the Court at any time for such further orders and
5 interpretation or execution of any order entered in this action, for the
6 modification of any such order, for the enforcement and compliance therewith,
7 and for the punishment of any violations thereof; and

8 10. For such further relief as the Court deems just and proper.

9
10 Dated: January 16, 2025

ROBINS KAPLAN LLP

11 By: /s/ David Martinez

12 David Martinez

13 Daniel D. Allender

Luis D. Gomez

14 Attorneys for Plaintiffs

Guillermo Cabrera; La Morena Music

15 Entertainment, LLC; Jorge Ernesto Ramirez

Ceballos; Fernando Guardado Rosales;

16 Jose Rosario Cisneros Gutierrez; and

17 Luis Antonio Plasencia Martinez

DEMAND FOR JURY TRIAL

Plaintiffs hereby demand a trial by jury.

Dated: January 16, 2025

ROBINS KAPLAN LLP

By: /s/ David Martinez

David Martinez

Daniel L. Allender

Luis D. Gomez

Attorneys for Plaintiffs

Guillermo Cabrera; La Morena Music

Entertainment, LLC; Jorge Ernesto Ramirez

Ceballos; Fernando Guardado Rosales;

Jose Rosario Cisneros Gutierrez; and

Luis Antonio Plasencia Martinez

EXHIBIT A

Event Date:
April 16, 2023
Venue: PAL
Stadium
San Jose, CA



📍 Nos vemos este Domingo 16 de Abril en 📍 PAL ESTADIUM de San José Ca. Banda Vallarta Show 4:00-5:15 p.m. Banda Maguey 5:30-6:45 Mi Banda El Mexicano...

👍 Like 💬 Comment ➦ Share

Event Date:
April 30, 2023
Venue: Santa
Maria Fairpark
Santa Maria, CA



📅 Domingo 30 Abril 2023 📍 Santa Maria California Terrenos De La Feria&Fairgrounds// EL CHAPO DE SINALOA, BANDA MACHOS, BANDA MAGUEY, HIJOS DE BARRON, TA...

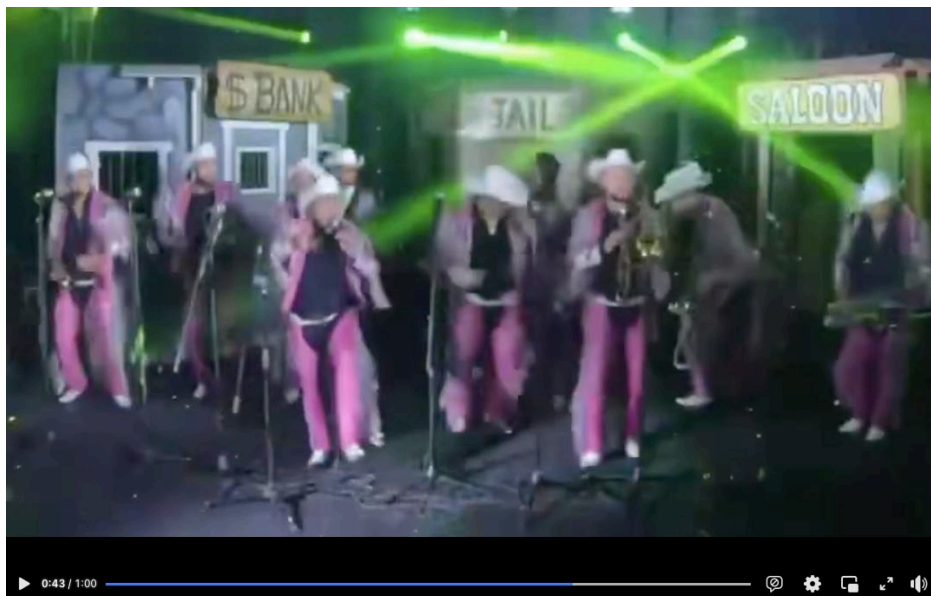
Event Date:
May 12, 2023
Venue: Enigma
Nightclub
Raleigh, NC



Viernes 12 de mayo en ENIGMA NIGHT CLUB MARCO FLORES BANDA MACHOS
BANDA MAGUEY jalense raza

Like Comment Share

8 - 3 comments - 277 views



Event Date:
May 21, 2023
Venue: Blue
Moon Event
Center
Memphis, TN



LLEGA EL PRIMER JARIPEO BAILE CON LA REYNA DE TODAS LAS BANDAS BANDA MACHOS BANDA MACHOS Y BANDA MAGUEY Y BANDA LA CONQUISTADORA Y...

Like Comment Share

213 · 35 comments · 12K views

Event Date:
July 7, 2023
Venue: Las
Maria's Bar
and Grill
Seaside, CA



SIGUE Y SIGUE MAGUEY 🇲🇽 Viernes 7 De Julio 🇲🇽 Banda Maguey Totalmente En Vivo 🇲🇽 Boletos 🇲🇽 Disponibles En Lugares De Costumbre 🇲🇽 Las Marias Bar &...

Like Comment Share

5 - 148 views



SIGUE Y SIGUE MAGUEY 🇲🇽 Viernes 7 De Julio 🇲🇽 Banda Maguey Totalmente En Vivo 🇲🇽 Boletos 🇲🇽 Disponibles En Lugares De Costumbre 🇲🇽 Las Marias Bar &...

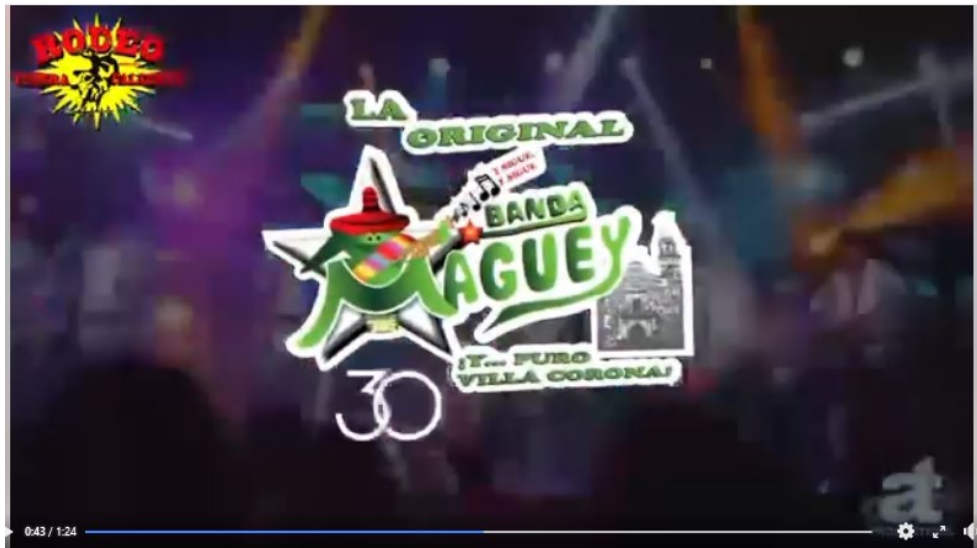
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5 - 148 views



SIGUE Y SIGUE MAGUEY 🇲🇽 Viernes 7 De Julio 🇲🇽 📍 Banda Maguey Totalmente En Vivo 🇲🇽 🇲🇽 Boletos 🇲🇽 Disponibles En Lugares De Costumbre 🇲🇽 Las Marias Bar &...

Event Date:
July 23, 2023
Venue:
The Great
Frederick Fair
Frederick, MD



🇲🇽 Domingo 23 Julio del 2023 🇲🇽 📍 THE GREAT FREDICK FAIR 🇲🇽 🇲🇽 CHUY LIZARRAGA 🇲🇽 🇲🇽 ALACRANEZ MUSICAL 🇲🇽 🇲🇽 BANDA MACHOS 🇲🇽 🇲🇽 BANDA MAGUE...

👍 Like 💬 Comment ➦ Share

👍❤️ 664 · 48 comments · 47K views

Event Date:
August 12, 2023
Venue:
Pan American
Ballroom
Porterville, CA



Sábado 12 de Agosto!!! Nos vamos a bailar quebradita en el Panamerican! 🤠 Banda Machos y Banda Maguey en nuestro escenario!! 🤠 para más información llama a...



Sábado 12 de Agosto!!! Nos vamos a bailar quebradita en el Panamerican! 🤠 Banda Machos y Banda Maguey en nuestro escenario!! 🤠 para má...

Event Date:
October 27, 2023
Venue: Broadacres
Marketplace
Las Vegas, NV



IMPERDIBLE El Concierto de CONJUNTO PRIMAVERA, BANDA MAGUEY y LA RULETA NORTEÑA este Sabado 28 de Octubre en Broadacres Marketpla...

Event Date:
March 2, 2024
Venue: Club
Nuestra Raza
Houston, TX





Event Date:
March 8, 2024
Venue: The Rave
/ Eagles Club
Milwaukee, WI



Event Date:
March 17, 2024
Venue: Pico
Rivera Sports
Arena
Pico Rivera, CA



Event Date:
March 17, 2024
Venue: Pico
Rivera Sports
Arena
Pico Rivera, CA



Event Date: April 6, 2024
Venue: Lake Chateau Banquets
Woodbridge Township, NJ

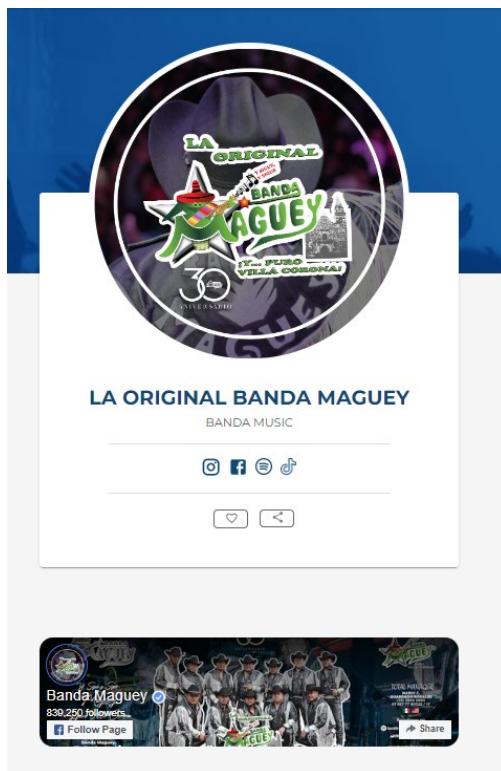


Event Date:
May 4-5, 2024
Venue: Victorian Square
Sparks, NV





Event Date:
July 14, 2024
Venue: Terrenos de
la Feria Merced
Merced, CA

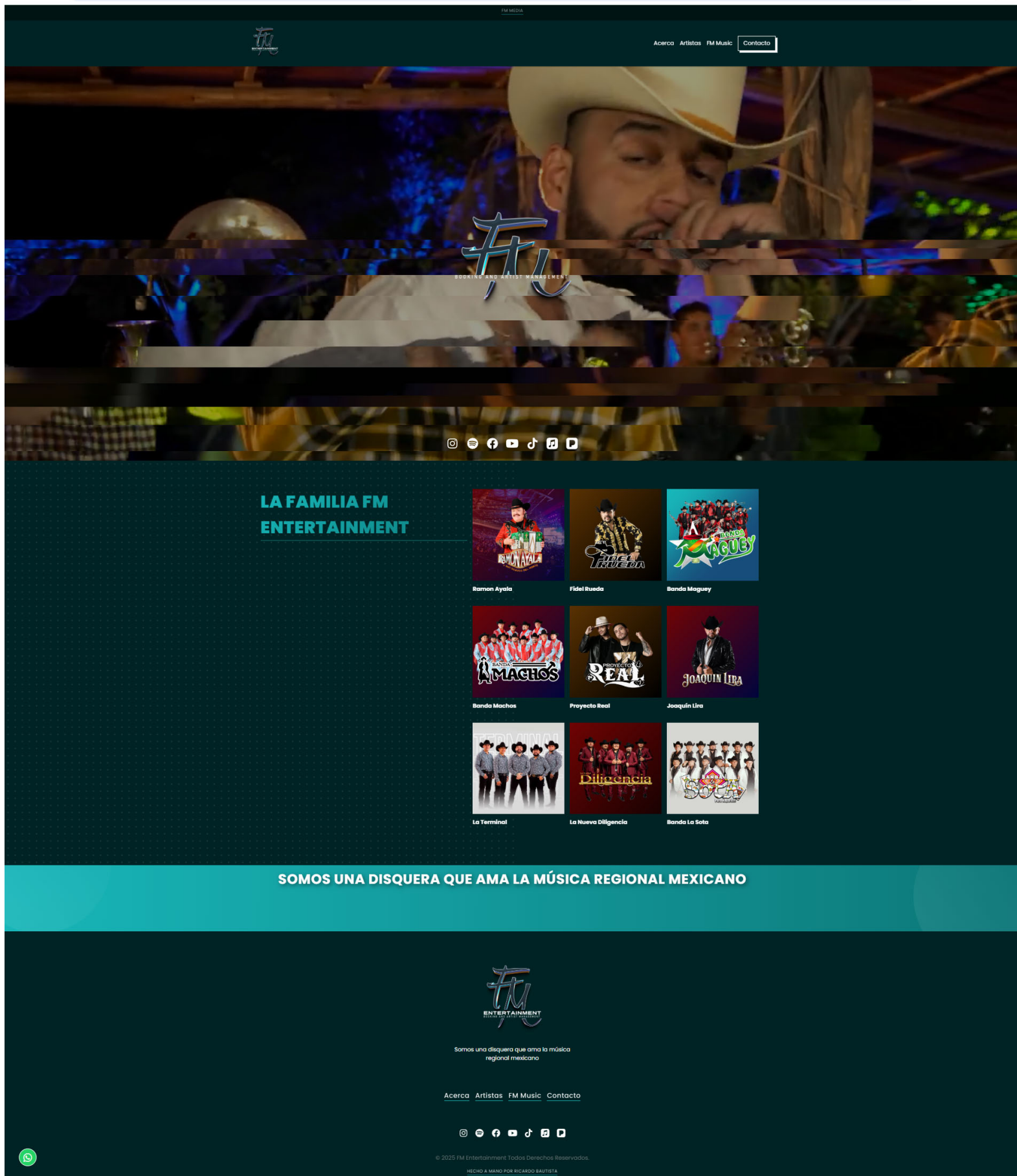



Event Date:
July 14, 2024
Venue: Terrenos de
la Feria Merced
Merced, CA




JARIPEO BAILE - MERCED, CA 🇲🇽 🇲🇽 🇲🇽 Banda Corona Del Rey 🇲🇽 Banda Carnaval
Oficial 🇲🇽 Banda Los Montoya 🇲🇽 Banda Maguey 📅 Domingo 14 Julio 📍 Terrenos ...


EXHIBIT B






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[Artistas](#)
[FM Music](#)
[Contacto](#)







LA FAMILIA FM ENTERTAINMENT




Ramon Ayala




Fidel Rueda



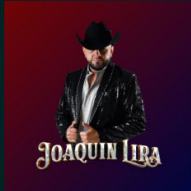
Banda Maguey




Banda Machos




Proyecto Real




Joaquin Lira




La Terminal



La Nueva Diligencia



Banda La Sota



Somos una disquera que ama la música regional mexicano

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HECHO A MANO POR RICARDO BAUTISTA



RSVP

Sun, FEB 16
Equestrian Center Equine Event Services
Lakeside, CA

[TICKETS](#)[RSVP](#)

Sat, APR 5
Circuit of the Americas
Austin, TX

[TICKETS](#)[RSVP](#)

Sat, MAY 3
Thunder Valley Casino Resort
Lincoln, CA

[TICKETS](#)[RSVP](#)

SOMOS UNA DISQUERA QUE AMA LA MÚSICA REGIONAL MEXICANO



La Familia FM Entertainment



RAMON AYALA



FIDEL RUEDA



BANDA MAGÜEY



BANDA MACHOS



PROYECTO REAL



JOAQUÍN LIRA



LA TERMINAL



LA NUEVA DILIGENCIA



BANDA LA SOTA



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regional mexicano

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HECHO A MANO POR RICARDO BAUTISTA





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🎵 Banda Maguey · Cuánto Te Quiero



❤️ 163 💬 3 📌 20



bandamaguey_oficial San Jacinto, CA 🇺🇸

Tenemos Una Cita Este 15 De Febrero Del 2025 📅 En Los Mareados VIP 🔥 ... more

3 days ago

